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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,820	11/24/2003	Christoph Nagel	101769-246/tesa AG 1627-W	5356
27386	7590	09/20/2006	EXAMINER	
NORRIS, MCLAUGHLIN & MARCUS, P.A. 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			FIGUEROA, JOHN J	
			ART UNIT	PAPER NUMBER
			1712	

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/720,820

Applicant(s)

NAGEL ET AL.

Examiner

John J. Figueroa

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The 35 U.S.C. 103(a) rejection of claims 1-5 (item 1 on page 2 of the Office Action of March 16, 2006, hereinafter 'OA') as unpatentable over EP 1,342,684 A to Nootbaar, hereinafter 'Nootbaar', has been withdrawn in view of the certified copy of an English translation of the instant application's foreign priority document that was filed with Applicant's response of June 29, 2006, hereinafter 'Response'.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT International Patent Application Number WO 2003/020623 A1 to Eikmeier et al (as exemplified by United States Patent Application Publication Number 2004/0256515 A1), hereinafter 'Eikmeier'.

Eikmeier discloses self-adhesive materials formed from an adhesive composition comprising 40-90% by total composition weight of acrylic acid and either 60-10% of butyl acrylate, or alternatively, 30-5% by wt. of butyl acrylate with 30-5% by wt. of ethylhexyl acrylate; said composition further containing an ethoxylated C₁₆-C₁₈ alkylamine plasticizer; and wherein said composition can be polymerized free-radically

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in a polar solvent using ethanol as a regulator. (Abstract; page 2, [0023] to [0028];

Figure 1)

Eikmeier discloses that the adhesive blend contains 25-45 % by weight of the acrylate polymers and 55-75% by weight plasticizer (page 2, [0027]) and that the composition can be partially crosslinked with 0.3 to 1.2% of an aluminum chelate crosslinker (page 2, [0028]).

Although Eikmeier discloses the plasticizer to be an ethoxylated alkylamine that is preferably an ethoxylated C₁₆-C₁₈ alkylamine, Eikmeier does not expressly teach the ethoxylated plasticizer to be a C₂₀ alkylamine.

However, it would have been with the purview of a person of ordinary skill in the art at the time of the invention to use a C₂₀ ethoxylated alkylamine plasticizer instead of the C₁₈ ethoxylated alkylamine plasticizer used in Eikmeier's adhesive composition. These two compounds only vary by two methylene groups and thus, are compounds of sufficiently close structural similarity that there would be a presumed expectation that such compounds possess similar properties. In re Wilder, 563 F.2d 457, 195 USPQ 426 (CCPA 1977). In the absence of unexpected results, it is presumed that the adhesive composition will possess the same physical properties using either of these two structurally similar ethoxylated alkylamine plasticizers.

Thus, the claims are unpatentable over Eikmeier.

Allowable Subject Matter

4. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

The 35 U.S.C. 103 Rejection over Nootbaar (item 1 of OA)

5. Applicant's arguments filed regarding the 35 U.S.C. 103(a) rejection of claims 1-5 as unpatentable over Nootbaar have been considered but have become moot due to the new grounds of rejection.

Conclusion

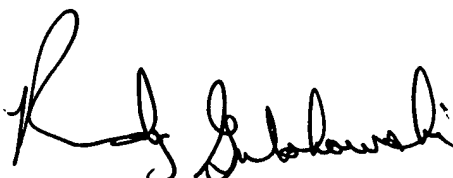
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Figueroa whose telephone number is (571) 272-8916. The examiner can normally be reached on Mon-Thurs & alt. Fri 8:00-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JJF/RAG



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